

## **REMARKS**

### **I.     Status of the Claims**

Claims 1, 3 and 32-55 are pending. Claims 1, 3, 32 and 33 stand rejected, and claims 34-55 are objected to. The specific grounds for rejection, and applicants' response thereto, are set out in detail below.

### **II.    Objections to the Drawings**

Applicants hereby submit replacement drawings to address the objections set forth in the previous Office Action.

### **III.   New Matter Rejection**

Claims 1 and 3 are now rejected as introducing new matter in the form of a size range limitation for peptides of "12 to 37 residues." Applicants traverse.

First, the examiner is incorrect in stating that 37 C.F.R. §1.121 requires "antecedent basis" for an amendment. "Antecedent basis" is required when a dependent claim refers to an element as "the" element or "said" element. Rather, 37 C.F.R. §1.121 merely reiterates that no new matter may be introduced by amendment.

Second, the case citation provided by the examiner, while stating a rule, offers no instruction on whether the instant situation is one that is precluded under 35 U.S.C. §112, first paragraph or 35 U.S.C. §132. Thus, this does not advance the examiner's case.

Third, the examiner has offered no rebuttal (or even comment) on the Robertson declaration or applicants' position that creation of a range from the smallest to the largest peptide

is appropriate. Thus, the only evidence of record on the issue of “new matter” indicates that the limitation is appropriate. As such, applicants believe the rejection is improper and should be withdrawn.

**If the examiner does not deem the response to overcome the rejection, applicants request a call to the undersigned number to discuss this rejection.**

**IV. Rejection Under 35 U.S.C. §112, Second Paragraph**

Claim 32 is rejected as indefinite in the use of the term “the sequence.” The claim has been canceled, thereby rendering the rejection moot.

**V. Rejections Under 35 U.S.C. §102**

***A. Panorama Research***

Claims 1 and 3 stand rejected under §102(b) over WO 94/02589 from Panorama Research. Applicants have amended claims 1 and 3 to remove SEQ ID NO:19. Reconsideration and withdrawal of the rejection is respectfully requested.

***B. Mahoney et al.***

Claims 32 and 33 stand rejected as anticipated by Mahoney. The claims have been canceled, thereby rendering the rejection moot.

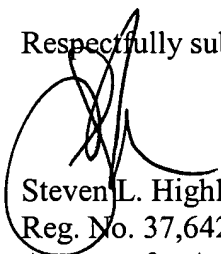
***C. Bagella et al.***

Claims 32 and 33 stand rejected as anticipated by Mahoney. The claim has been canceled, thereby rendering the rejection moot.

**VI. Conclusion**

In light of the foregoing, applicants respectfully submit that all claims are in condition for allowance, and an early notification to that effect is solicited. The examiner is invited to contact the undersigned at (512) 536-3184 with any questions, comments or suggestions relating to the referenced patent application. Please date stamp and return the enclosed postcard as evidence of receipt.

Respectfully submitted,



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